

it is necessary to prove an actual ouster to rebut this presumption, and the onus of proving the actual ouster, is on the party alleging it." Van Bibber v. Frazier, 17 Md. 436, 451 (1861).

"Possession by one such co-tenant is, in contemplation of law, possession by the other also, and it is necessary to prove an actual ouster to rebut this presumption and establish adverse possession in the one." Ross v. Phillips, 148 Md. 165, 167 (1925).

"It is not the law that there can be no adverse possession by one tenant in common against the other, but more evidence is required. The ouster by a tenant in common of his co-tenant is not different in its nature from any other ouster nor in any respect except in the degree of evidence required. The distinction relates to the character of the evidence necessary to prove that the possession was adverse." Potomac Lodge v. Miller, 118 Md. 405, 416 (1912).

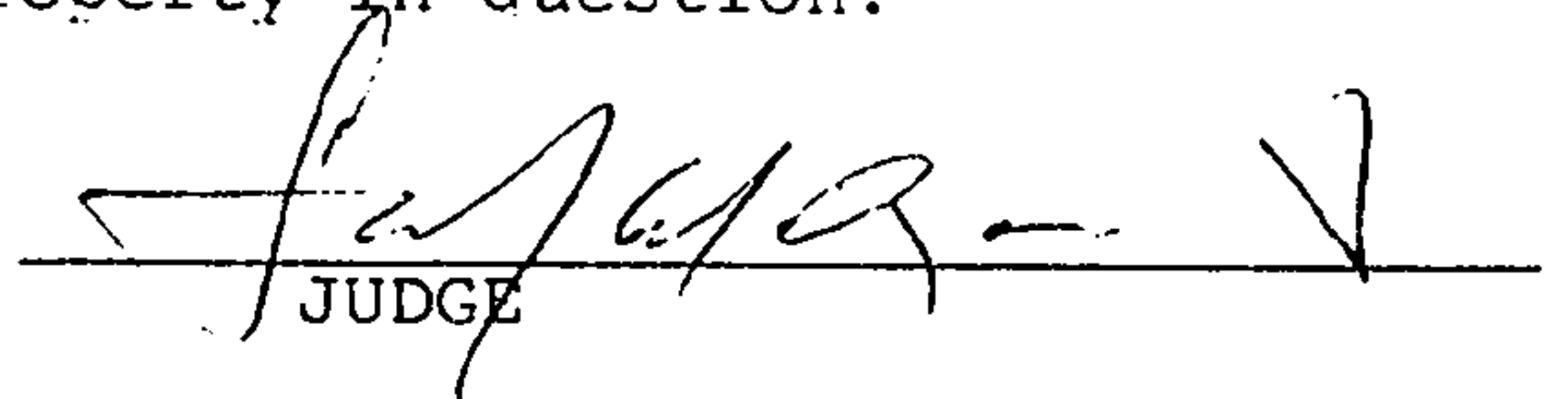
"Generally, a co-tenant's sole possession of the land becomes adverse to his fellow-tenants by his repudiation or disavowal of the relation of co-tenancy between them; and any act or conduct signifying his intention to hold, occupy and enjoy the premises exclusively, and of which the tenant out of possession has knowledge or of which he has sufficient information to put him upon inquiry, amounts to an ouster of such tenant. A writing is unnecessary; but the claimant must show a definite and continuous assertion of an adverse right by overt acts of unequivocal character clearly indicating an assertion of ownership of the premises to the exclusion of the right of the other co-tenants. Of course, here as well as elsewhere, the character of the land must be taken into consideration." Sowers v. Keedy, 135 Md. 448, 451 (1919).

Conclusions

Here the Complainant's husband, while W. Ernest Walter was living, in effect disavowed the relationship of co-tenancy between them. He farmed the property and took all the profits. He and his wife held the property exclusively, with full knowledge of Mr. Walter. The action of the Complainant and her husband amounted to an ouster of Mr. Walter as a co-tenant.

There is no question that the facts of this case support possession by the Complainant to be adverse to the heirs of W. Ernest Walter, since there is no evidence before the Court that they showed any interest in this property since Mr. Walter's death.

For these reasons, the Court will sign a decree which will grant to the Complainant title to the property in question.


JUDGE

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